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February 16, 2005

Sharla Dillon, Docket Room Manager
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

Re: Petition of Lynwood Utility Corporation for Approval of Transfer and Control
Nunc Pro Tunc
Docket No. 04-00360

Dear Ms. Dillon

Pursuant to the January 14, 2005 letter of Aster Adams to me, I have enclosed the original and thirteen copies of the Response of Lynwood Utility Corporation to Staff Data Request No. 2 in this matter.

As set forth in the Response, Lynwood has hired James Ford, a financial consultant familiar with public utility accounting, to assist it in the review of its accounts and preparation of its financial statements for the year ended December 31, 2004. Mr. Ford will be meeting on Friday, February 18, 2005, with the accounting firm Lynwood has been using to assist him in finalizing the financial statements for the year ended December 31, 2004. As soon as the financial statements are completed, they will be forwarded to the Authority. Rather than delay this Response until the financial statements for the year ended December 31, 2004, are completed, Lynwood is filing the Response and will supplement its Response with the financial statements for the year ended December 31, 2004, shortly. Tyler Ring, John Ring and Mr. Ford are more than willing to meet with the Staff upon the submission of the financial statements to discuss the financial statements, this Response and any other issues related to the Petition.

Thank you for your assistance in this matter.

Sincerely yours,

Donald L. Scholes

DONALD L. SCHOLES

Enclosures

c Tyler Ring
James Ford

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BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

T.R.A. DOCKET ROOM

In re: PETITION OF LYNWOOD UTILITY)
CORPORATION FOR APPROVAL)
OF TRANSFER AND CONTROL) DOCKET NO. 04-00360
***NUNC PRO TUNC*)**

PETITIONER'S RESPONSE TO DATA REQUEST NO. 2

Comes now Lynwood Utility Corporation (Lynwood) and files this Response to Staff Data Request No. 2 in this matter.

1 While the Staff realizes that TDEC had sued Lynwood for failure to comply with the sewage treatment codes, why was the Authority not informed of the predicament or contacted for pre-approval of the loan?

Response: Enclosed are copies of the Complaint filed by TDEC against Lynwood on May 23, 2002, an Order Granting Temporary Injunction dated December 30, 2002, which enjoined Lynwood from operating the sewage treatment plant in violation of its NPDES permits, and the Consent Order and Dismissal dated June 24, 2004. Tyler Ring and John Ring, who became the sole shareholders of Southern Utility Corporation on January 1, 2003, were not aware that any Authority regulation or order required that the Authority be notified by Lynwood of violations of its NPDES permits. At this time their primary concern and objective was to make the necessary upgrades to the sewage treatment plant to avoid the violation of the temporary injunction and the penalties for any violation. Lynwood focused its energies and resources on satisfying

TDEC, the state agency responsible for seeing that it complied with the terms and conditions of its NPDES permit.

Tyler Ring and John Ring were aware that Lynwood needed to obtain Authority approval of a loan payable more than one year from the date made. When they began to make the necessary upgrades to the sewage treatment plant to comply with the injunction and its NPDES permits, the amount needed for compliance was not fully known. Therefore, Lynwood entered into a loan agreement with Tennessee Contractors, Inc. for a line of credit in the amount of \$1,250,000 to finance the needed improvements with a maturity date of six months which was renewable at the discretion of the Tennessee Contractors, Inc. Because the maturity date of the line of credit was less than one year, Tyler Ring and John Ring assumed that no approval from the Authority was necessary. The note has been renewed and permanent financing is being sought now that almost all of the sewage treatment plant upgrades have been completed. Because the attention of Tyler Ring and John Ring in operating Lynwood were focused almost exclusively on bringing the sewage treatment plant into compliance, they may have failed to make the appropriate inquiry to the Authority about whether a short term note with a renewable provision came within the purview of T.C.A. § 65-4-109. There was certainly no intent to mislead the Authority. The violation of TDEC regulations by the Lynwood sewage treatment plant and the pending lawsuit were well-publicized, and Tyler Ring and John Ring were trying their best to respond to these violations and to continue to provide safe and adequate sewer service to Lynwood's customers.

2. The Promissory Note is for \$1,250,000 Is that the amount recorded on the balance sheet as a liability or was it \$980,000 that the petition states was used for upgrades?

Response: The Promissory Note of Lynwood to Tennessee Contractors, Inc. was for a line of credit up to an amount of \$1,250,000. Prior to the petition being filed in this matter, Lynwood had borrowed \$980,000 on this line of credit for upgrades to the sewage treatment plant, and this amount is recorded on the balance sheet of Lynwood as a liability.

3. If \$980,000 was recorded, what was done with the difference between \$1,250,000 and the \$980,000 that the petition maintains was used for system improvements?

Response. The difference between the \$1,250,000 authorized line of credit and the \$980,000 recorded is the additional amount which Lynwood had the ability to borrow on the line of credit at the time the petition was filed.

4. Provide a current audited balance sheet and income statement for Lynwood Utility Corporation.

Response: Lynwood has hired James Ford, a financial consultant familiar with public utility accounting, to assist it in the review of its accounts and preparation of its financial statements for the year ended December 31, 2004. Mr. Ford will be meeting on Friday, February 18, 2005, with the accounting firm Lynwood has been using to assist him in finalizing the financial statements for the year ended December 31, 2004. As soon as the financial statements are completed, they will be forwarded to the Authority

Lynwood desires that the financial statements for the year ended December 31, 2004, be in compliance with public utility accounting principles which Mr. Ford is assisting it in preparing. Tyler Ring, John Ring and Mr. Ford are more than willing to meet with the Authority staff upon the submission of the financial statements to discuss them and any other issues related to the petition. Mr. Ford will continue to work with Lynwood in the review of its accounts for the timely submission of Lynwood's 2004 Annual Report with the Authority

5. Are the new owners of Lynwood aware that they are required to get approval of the purchase of the utility? Are they aware that Lynwood is a public utility subject to public utility regulation? Please explain in detail.

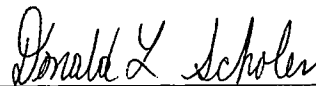
Response: Tyler Ring and John Ring were aware that Lynwood was a public utility subject to public utility regulation by the Authority when they became shareholders of Southern Utility Corporation on May 1, 2002. They worked with Davis Lamb, the President of Lynwood, for several months before they became the sole shareholders of Southern Utility Corporation on January 1, 2003. They were aware that the Authority set Lynwood's rates, established the terms and conditions of providing service to Lynwood's customers and that certain reports were to be filed with the Authority.

Southern Utility Corporation is the sole shareholder of the stock of Lynwood. On January 23, 2003, counsel for Lynwood wrote the Authority's General Counsel and requested an opinion as to whether approval of the transfer of the shares of Southern Utility Corporation was required by T.C.A. § 65-4-113 and set forth why counsel for

Lynwood thought a question existed about whether any approval was required. No written response was received after a follow up call from counsel for Lynwood. Shortly before this petition was filed, the Authority staff advised Tyler Ring that such approval was required. Therefore, the petition was prepared and filed by Lynwood to obtain the approval of the transfer of all of the shares of Southern Utility Corporation to Tyler Ring and John Ring.

Dated this 16th day of February, 2005.

Respectfully submitted,



DONALD L. SCHOLES BPR# 10102
Branstetter, Kilgore, Stranch & Jennings
227 Second Avenue, North, Fourth Floor
Nashville, TN 37201-1631
(615) 254-8801

Attorney for Lynwood Utility Corporation

ATTACHMENTS TO RESPONSE NO. 1

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

STATE OF TENNESSEE, ex rel.)
PAUL G. SUMMERS, in his official capacity)
as the Attorney General And Reporter of)
Tennessee and MILTON H. HAMILTON, JR.)
Commissioner of the Tennessee Department of)
Environment and Conservation,)

Plaintiffs,)

v.)

(2) CM SOUTHERN UTILITY CORPORATION,)
dba LYNNWOOD UTILITY CORPORATION,)
and DAVIS LAMB,)

Defendants.)

No. 02-1538-III
9#
2002 MAY 23 PM 3:22

VERIFIED COMPLAINT

This action represents a request for injunctive relief and civil penalties under the Water Quality Control Act of 1977, as amended, Tenn Code Ann §§ 69-3-101 to 69-3-137 (WQCA), against defendants Southern Utility Corporation dba Lynnwood Utility Corporation and Davis Lamb. The plaintiffs seek from this Court (1) a permanent injunction requiring the defendants to come into compliance with the Act and the regulations thereunder with respect to the operation of their sewage treatment plant in Williamson County, Tennessee, and (2) an order and judgment from this Court assessing civil penalties against defendants, jointly and severally, for water quality violations in accordance with Tenn Code Ann § 69-3-115. In accordance with the Tennessee Supreme Court's decision in *City of Chattanooga v Davis and Barrett v Metropolitan Government of Nashville and Davidson County*, 54 S W 3d 248 (Tenn 2001), the defendants may be entitled to a jury solely for the purpose of the assessment of any civil penalties by this Court.

I. JURISDICTION AND VENUE

1 This Court has jurisdiction over this action in accordance with the provisions of Tenn Code Ann §§ 69-3-115 and 69-3-117

2 Venue of this action lies in Davidson County in accordance with the provisions of Tenn Code Ann §§ 69-3-115 and 69-3-117

II. PARTIES

3 This action is brought in the name of the State of Tennessee by plaintiff, Paul G Summers, in his official capacity as Attorney General and Reporter for the State of Tennessee. The Attorney General is the chief law enforcement officer of the State of Tennessee, of all its departments, commissions and agencies. Tenn. Code Ann. §§ 8-6-109 and 8-6-301. The Attorney General also has authority over litigation involving the public interest. The Attorney General's official residence is in Nashville, Davidson County, Tennessee.

4 This action is also brought in the name of the plaintiff, Milton H. Hamilton, Jr., in his official capacity as Commissioner of the Tennessee Department of Environment and Conservation (TDEC). The TDEC Commissioner is charged by Tenn. Code Ann. §§ 69-3-107 with the duty and responsibility to exercise general supervision and enforcement of the Water Quality Control Act and to bring suit for any violations thereunder. (Attached hereto as Exhibit 1 is the Affidavit and Verification of Christopher S. Moran, Enforcement Manager with TDEC Division of Water Pollution Control). The Commissioner's official residence is in Nashville, Davidson County, Tennessee.

5 Southern Utility Corporation (hereinafter "Southern" or "Lynnwood"), is a domestic corporation doing business in the State of Tennessee, with its principal offices located at 5214 Maryland Way, Suite 405, Brentwood, Tennessee 37027. Upon information and belief, Southern is doing business as Lynnwood Utility Corporation (LUC), having acquired the assets and operating authority of LUC in May 1999. Southern owns and operates a sewage treatment facility at 120 Cottonwood Drive in Franklin, Williamson County, Tennessee that was originally operated under the name of Lynnwood Utility Company. The registered agent for service of process of defendant Southern is Jeffrey R. King, 424 Church Street, Suite 1800, Nashville, Tennessee 37219.

7 Davis Lamb is the president of defendant Southern dba Lynnwood and the operator of Lynnwood's sewage treatment facility at 120 Cottonwood Drive in Franklin, Tennessee. Upon information and belief, Davis Lamb became the chief executive officer for Lynnwood on or shortly before January 1, 2000. Defendant Lamb can be served at 5214 Maryland Way, Suite 405, Brentwood, Tennessee 37027.

8 Defendants Southern and Lamb are both "person[s]" as defined by Tenn. Code

Ann § 69-3-103(20) and "owner[s] or operator[s]" as defined by Tenn Code Ann § 69-3-103(19) for purposes of the WQCA

III. WATER QUALITY CONTROL ACT

9 The Federal Water Pollution Control Act, as amended, 33 U S C §§ 1251, *et seq* (Hereinafter "CWA") requires all entities who discharge into the navigable waters of the United States to obtain a National Pollutant Discharge Elimination System (NPDES) permit from the Environmental Protection Agency (EPA) in accordance with standards set by the Administrator of that agency 33 U S C § 1342(a) The Administrator can, however, authorize a state to issue NPDES permits in her stead if the state permitting program is at least equal to that under the CWA 33 U S C § 1342(b) TDEC has been authorized by the U S EPA to issue NPDES permits in the State of Tennessee Tennessee does so under the Water Quality Control Act of 1977, Tenn Code Ann §§ 69-3-101 to 69-3-137 (WQCA)

10 The WQCA represents a comprehensive program for the protection and preservation of the waters of the State and for the regulation of activities affecting discharges into, and/or alterations of, the waters of the State The General Assembly has declared that the "waters of Tennessee are the property of the state and are held in public trust for the use of the people" Tenn Code Ann § 69-3-102(a) The WQCA further provides that the State, in its exercise of the public trust, has a duty to take necessary steps to preserve and protect the public's right of enjoyment to unpolluted waters

11 The Commissioner is empowered to issue permits authorizing discharges that contain the most stringent effluent limitations, conditions and water quality standards as necessary to comply with state and federal laws and regulations Tenn Code Ann § 69-3-108(e) The Commissioner is also empowered to undertake inspections and investigations as necessary to enforce the provisions of the Act Tenn Code Ann § 69-3-107(5) Additionally, the Commissioner may administratively assess civil penalties of up to \$10,000 00 per day for each day of the violation against persons violating the Act or regulations thereunder, or he may institute proceedings in court for the assessment of such civil penalties. Tenn Code Ann § 69-3-115

12 It is a violation of the Water Quality Control Act for any person to discharge any

substance into the waters of the State, or to cause a substance to be placed in a location that results in pollution, as defined under the Act Tenn Code Ann § 69-3-114

13 The Commissioner may seek injunctive relief in the courts through the Office of the Attorney General to enforce compliance with the Act Tenn Code Ann § 69-3-117 And under Tenn Code Ann § 69-3-116, the State is entitled to recover as damages any reasonable expenses incurred in enforcing the provisions of the WQCA

IV. FACTS

14 On or about July 30, 1993, TDEC issued NPDES permit No 0029718 to Lynwood Utility Company authorizing it to discharge effluent, under prescribed limitations, from its sewage treatment facility in Franklin, Tennessee into the Harpeth River at mile 77.9 This permit expired on July 29, 1998

15 At mile 77.9, downstream from Lynwood's sewage treatment plant outfall, the Harpeth River is classified by Tenn Comp R & Reg, ch 1200-4-4-12 for the following uses by the Tennessee Water Quality Control Board domestic water supply, industrial water supply, fish and aquatic life, recreation, irrigation, and livestock watering and wildlife Tenn Comp R & Reg, ch 1200-4-3-02(6) provides that since all waters of the state are classified for more than one use, "the most stringent criteria [for the respective classified use] will be applicable"

16 Lynwood's 1993 NPDES permit contained specific effluent limitations for the following characteristics CBOD5 (carbonaceous biochemical oxygen demand), ammonia, suspended solids, fecal coliform, chlorine residual, settleable solids, dissolved oxygen, and pH

17 In the spring of 1998, TDEC accepted Lynwood's plans for a proposed expansion of its sewage treatment facility, which included adding a new clarifier, retrofitting an existing basin to be used as an aeration basin, replacing the influent pump station and replacing the eight inch effluent line to the Harpeth River with a twelve inch gravity line The first phase of the upgrade to Lynwood's facility was complete by the fall of 1998

18 On or about July 31, 1998, TDEC reissued NPDES permit No 0029718 to Lynwood Utility Corporation (formerly Lynwood Utility Company) authorizing it to discharge effluent, under prescribed limitations, from its sewage treatment facility in Franklin, Tennessee into the Harpeth River at mile 77.9 This permit was set to expire on July 31, 2001

19 On September 18, 1998, TDEC issued a Director's Order to Lynnwood citing it for 96 permit parameter violations and 13 incidents of bypassing for the period of July 1995 through June of 1998. Most of these parameter violations consisted of exceeding the limitations for chlorine residual, the monthly average and daily maximum limits for ammonia, and the daily maximum limits for fecal coliform.

20 In accordance with Lynnwood's 1998 NPDES permit, the plant's design capacity was reduced from 250,000 to 200,000 gallons per day and the following effluent modifications were placed upon the discharge from Lynnwood's sewage treatment plant:

- a **CBOD5** - the monthly and weekly average amount limits were decreased from 21 and 31 (lbs per day) to 17 and 25 respectively,
- b **Ammonia** - the monthly and weekly average amount limits for May-Oct and Nov-April were decreased from 4 and 6 and 10 and 16 (lbs per day) to 3 and 5 and 8 and 13 respectively,
- c **Suspended Solids** - the monthly and weekly average amount limits were decreased from 63 and 83 (lbs per day) to 50 and 67 respectively,
- d **Settleable Solids** - the sampling rate was decreased from five times a week to three times a week and the sampling method was changed from a grab to composite sample.

Lynnwood's 1998 NPDES permit also contained effluent limitations for fecal coliform, chlorine residual, dissolved oxygen, and pH.

21 In September 1998, Lynnwood applied to TDEC to increase the design flow capacity for its sewage treatment plant from 200,000 to 400,000 gallons per day, based on the continued expansion and upgrading of its facility. This second phase of the expansion and upgrade was intended to enable Lynnwood to provide sewer service for new construction, as well as existing homes with septic tanks in the area.

22 In May 1999, after holding a public hearing on the permit expansion, TDEC issued a modified permit to Lynnwood for the period May 14, 1999 through July 31, 2001. This permit included maintenance of most of the existing concentration and loading limits with flow capacity of 200,000 gallons per day until such time as the plant's expansion was complete, or for the period of May 14, 1999 to May 31, 2000. The same permit provided for the expansion to

400,000 gallons per day to begin June 1, 2000, after which the permit contained modifications to the concentration and loading limits up through July 31, 2001

23 The modified permit issued to Lynnwood in May 1999 included the institution of effluent limits on total nitrogen (N) beginning June 1, 2000 with the plant's anticipated expansion. In June 1999, Lynnwood initiated discussions with TDEC's Division of Water Pollution Control to modify the permit's nitrogen limits. Defendant Lamb participated in discussions and meetings with TDEC on the necessity of nitrogen limits. This issue was resolved in the fall of 2000, when TDEC issued Lynnwood a modified permit with total nitrogen limits of 3 mg/l as a monthly average, 4.5 mg/l as a weekly average and 6 mg/l as a daily maximum in effect only for the summer season (May 1 - October 31). As a result, Lynnwood was not required to begin reporting total nitrogen results until May 1, 2001.

24 Between July 1, 1998 and December 31, 1998, Lynnwood had 60 permit parameter violations (in the NPDES permit expiring on July 31, 1998 and the permit reissued on August 1, 1998) and one bypass event. In July 1998, alone, Lynnwood had 50 violations of its permit, including 14 for total suspended solids, 14 for ammonia, 10 for fecal coliform, eight for CBOD, three for chlorine residual and one for settleable solids. See Affidavit of Michael R. Thornton and summaries attached hereto as Exhibit 2.

25 On October 30, 1998, TDEC issued Lynnwood a Notice of Violation for parameter violations of its permit limits in July, August, and September, 1998, and a bypass of its treatment in September.

26 In 1999, Lynnwood had 31 permit parameter violations (in the NPDES permit issued on August 1, 1998, and the permit reissued on May 14, 1999). These violations occurred primarily between May 1, 1999 and July 31, 1999, and consisted mostly of ammonia parameter violations. See Affidavit of Michael R. Thornton and summaries attached hereto as Exhibit 2.

27 On January 11, 2000, TDEC issued Lynnwood a Notice of Violation for parameter violations of its permit limits in February, June, July and November, 1999. This notice was sent to Davis Lamb as president of LUC.

28 In 2000, Lynnwood had 40 permit parameter violations (in the NPDES permit reissued on May 14, 1999). These violations occurred primarily in April, May, November and December, and consisted mostly of total suspended solids and ammonia parameter violations.

See Affidavit of Michael R. Thornton and summaries attached hereto as Exhibit 2

29 On May 9, 2001, TDEC issued Lynnwood a Notice of Violation for parameter violations of its permit limits in 2000. This notice was sent to Davis Lamb as president of LUC.

30 In 2001, Lynnwood had 92 permit parameter violations (in the NPDES permit reissued on May 14, 1999) and three bypass events. In January, 2001, alone, Lynnwood violated its monthly and weekly average concentration and loading limits, as well as its daily maximum limit for ammonia on at least 24 days and it had two bypass events that month. Multiple violations of the ammonia and total nitrogen limits also occurred in the months of August, September and October, 2001. See Affidavit of Michael R. Thornton and summaries attached hereto as Exhibit 2.

31 On August 8, 2001, TDEC issued Lynnwood a Notice of Violation for permit parameter violations and one bypass occurring between January and April, 2001. On March 15, 2002, TDEC issued Lynnwood a Notice of Violation for permit parameter violations for the period of August, 2001 through February 2002. Both of these notices were sent to Davis Lamb as president of LUC.

32 Between January 1, 2002 and April 30, 2002, Lynnwood had at least seven permit parameter violations (in the NPDES permit reissued May 14, 1999) and two bypass events. In January 2002, Lynnwood had one violation of its daily maximum for fecal coliform and in March 2002, Lynnwood violated the 10 ml/L maximum daily limit for settleable solids on at least five days, and violated the 20 mg/l maximum daily limit for CBOD on at least one day. See Affidavit of Michael R. Thornton and summaries attached hereto as Exhibit 2.

33 Despite upgrading and expanding the Lynnwood sewage treatment facility, defendants have consistently exceeded the maximum monthly and weekly average and maximum daily ammonia limits imposed upon it in its NPDES permits. Examination of the discharge monitoring reports and the monthly operation reports indicates that the ammonia parameters were exceeded for the following months:

July 1998	14 violations
June 1999	8 violations
July 1999	17 violations
December 2000	21 violations
January 2001	24 violations
February 2001	1 violation
August 2001	6 violations

September 2001	10 violations
October 2001	2 violations

34 Despite upgrading and expanding Lynnwood's sewage treatment facility and prevailing with TDEC in 2000 to apply the total nitrogen limits in its permit only to the summer period of May through October, defendants have consistently exceeded the maximum monthly and weekly average and maximum daily total nitrogen limits imposed upon it in its NPDES permit beginning May 1, 2001. Examination of the discharge monitoring reports and the monthly operation reports indicates that the total nitrogen parameters were exceeded for the following months:

May 2001	3 violations
June 2001	1 violation
August 2001	6 violations
September 2001	13 violations
October 2001	10 violations

35 Lynnwood timely submitted an application to renew its NPDES permit, which expired on July 31, 2001. TDEC is in the process of reviewing that application.

V. FIRST CAUSE OF ACTION

36 Lynnwood has failed to meet the effluent parameters and conditions contained in its consecutive NPDES permits, since the Department issued Lynnwood a Director's Order in 1998 for violations of its 1993 NPDES permit, as detailed in ¶¶ 24-34 above. Defendants have continually failed to discharge in accordance with these parameters, despite repeated notices of violation from the State and they are therefore in violation of the NPDES permits issued pursuant to Tenn. Code Ann. § 69-3-108. In accordance with Tenn. Code Ann. § 69-3-117, this Court is authorized to issue a permanent injunction against defendants requiring them to comply with the provisions of the WQCA, the regulations thereunder, and the conditions of the NPDES permits issued to Lynnwood pursuant to Tenn. Code Ann. § 69-3-108.

VI. SECOND CAUSE OF ACTION

36 Defendants' effluent discharge from their sewage treatment plant into the Harpeth River exceeded limits contained in their NPDES permits for such discharges on numerous

occasions, as detailed in ¶¶ 24-34 above, and has resulted in multiple violations of the conditions of their permits issued under Tenn Code Ann § 69-3-108. In accordance with Tenn Code Ann §§ 69-3-115(a)(1) (A) and (B) and 69-3-115(a)(2)(D), this Court may impose a civil penalty of up to \$10,000.00 per day for each day any person violates an effluent or water quality standard promulgated under the WQCA, or a permit condition. Defendants are therefore subject to a civil penalty assessment of up to \$10,000.00 per day for each day of such violation.

VII. THIRD CAUSE OF ACTION

37 In accordance with the provisions of Tenn Code Ann § 69-3-114(a), it is unlawful to discharge any substance into the waters of the State of Tennessee so as to cause a condition of pollution, as defined in Tenn Code Ann § 69-3-103(22). Any such action is declared a public nuisance.

38 Defendants' actions in repeatedly discharging effluent from their sewage treatment plant into the Harpeth River in excess of the limits contained in their NPDES permits so as to result, or be likely to result, in potential harm to the public health or the health of aquatic life, to render the Harpeth River substantially less useful for its reasonable classified uses, or to leave the Harpeth River in a condition that violates the water quality standards established for the river constitute, therefore, a public nuisance that may be abated by the action of this Court.

VIII. FOURTH CAUSE OF ACTION

39 In accordance with the provisions of Tenn Code Ann § 69-3-114(a), it is unlawful for any person to discharge any substance into the waters of the State of Tennessee so as to cause a condition of pollution, as defined in Tenn Code Ann § 69-3-103(22), unless such discharge is due to unavoidable accident or unless the discharge has been properly authorized.

40 Defendants' actions in repeatedly discharging effluent from their sewage treatment plant into the Harpeth River with concentrations of pollutants in amounts exceeding the limits contained in their NPDES permits, as detailed in ¶¶ 24-34 above, has contributed to the pollution of the waters of the state and is neither due to unavoidable accident nor has it been

properly authorized. These unpermitted discharges constitute unauthorized alterations of the waters of the state in violation of Tenn. Code Ann. § 69-3-108(b). Defendants' unauthorized excessive discharges have impacted and continue to impact waters of the state, which are held in trust for the public.

41 In accordance with Tenn. Code Ann. §§ 69-3-115(a)(1)(H) and 69-3-115(a)(2)(D), this Court may impose a civil penalty of up to \$10,000.00 per day for each day any person violates the WQCA by causing or contributing to the pollution of the waters of the state. Defendants are therefore subject to a civil penalty assessment of up to \$10,000.00 per day for each day of such violation.

IX. FIFTH CAUSE OF ACTION

42 The State of Tennessee has incurred damages, investigatory expenses and enforcement expenses, including attorney's fees, in responding to the violations of the WQCA committed by defendants.

43 In accordance with Tenn. Code Ann. § 69-3-116(c), damages may be assessed by this Court against any polluter or violator for "any expenses incurred in investigating and enforcing this part."

XI. PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully request the following relief:

1 That this complaint be filed without cost bond, as provided by Tenn. Code Ann. § 20-13-101, and that process issue and be served upon defendants requiring them to appear and answer this complaint.

2 That upon a trial or final hearing in this matter, the Court enter judgment for the plaintiffs against defendants jointly and severally and assess civil penalties in an amount not to exceed \$10,000.00 per day for each violation, in accordance with Tenn. Code Ann. § 69-3-115, against defendants jointly and severally for violations of the Water Quality Control Act and the regulations promulgated pursuant to the WQCA.

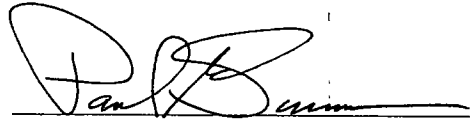
3 That upon a trial or final hearing in this matter, the Court issue a permanent injunction against all defendants, in accordance with Tenn Code Ann § 69-3-117, requiring each of them to comply with, and enjoining them from further violations of, the provisions of the WQCA and the rules promulgated thereunder, as well as their current and any future NPDES permits issued to them in the State of Tennessee

4 That this Court assess post-judgment interest against defendants in accordance with Tenn Code Ann §§ 47-14-121 and 47-14-122 until the judgment against defendants is paid in full, for which execution may issue if necessary

5 That this Court award plaintiffs such costs, including, but not limited to, reasonable expenses incurred in investigation, compliance examination, enforcement, as well as attorneys' fees, that may be taxable by law for defendants' water quality violations, as provided by Tenn Code Ann § 69-3-116(c)

7 That this Court award plaintiffs such other general and equitable relief to which they may be entitled

Respectfully submitted,



PAUL G SUMMERS (# 6285)
Attorney General and Reporter



ELIZABETH P McCARTER (#10531)
Senior Counsel
Office of the Attorney General and Reporter
Environmental Division
P O Box 20207
Nashville, Tennessee 37202
(615) 532-2582

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

STATE OF TENNESSEE, ex rel.)
PAUL G. SUMMERS, in his official capacity)
as the Attorney General And Reporter of)
Tennessee and MILTON H. HAMILTON, JR.)
Commissioner of the Tennessee Department of)
Environment and Conservation,)
Plaintiffs,)

v.)

SOUTHERN UTILITY CORPORATION,)
dba LYNNWOOD UTILITY CORPORATION,)
and DAVIS LAMB,)
Defendants.)

No.)

2002 MAY 23 PM 3:22
J

VERIFICATION OF COMPLAINT

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

I, Christopher S Moran, after being duly sworn, do hereby depose and, upon personal knowledge, state as follows

1 I am the manager of the enforcement and compliance section in the Division of Water Pollution Control (Division) in the Tennessee Department of Environment and Conservation (TDEC) I have been employed with TDEC for over eight years in the Water Pollution Control Division

2 I am familiar with the facts giving rise to this lawsuit insofar as they concern water quality issues I have reviewed (and signed some) of the notices of violation that were issued to defendants concerning violations of the effluent parameters contained in their NPDES permits and their plant's bypassing of treatment I have read the allegations contained in the foregoing complaint and believe the allegations concerning water quality issues and violations of the Water Quality Control Act to be true to the best of my knowledge, information and belief

3 Based on my education and experience and the information obtained by the Department in the course of its investigation and inspections of defendants' sewage treatment

requires that this action be commenced, therefore, I have requested the Attorney General to bring
this amended action

FURTHER THE AFFIANT SAITH NOT


CHRISTOPHER S MORAN

Sworn to and subscribed before me

this 23 day of May, 2002


NOTARY PUBLIC

My Commission Expires 2-20-2006

EXHIBIT 1

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

STATE OF TENNESSEE, ex rel.)
PAUL G. SUMMERS, in his official capacity)
as the Attorney General And Reporter of)
Tennessee and MILTON H. HAMILTON, JR.)
Commissioner of the Tennessee Department of)
Environment and Conservation,)

Plaintiffs,)

v.)

No.)

SOUTHERN UTILITY CORPORATION,)
dba LYNNWOOD UTILITY CORPORATION,)
and DAVIS LAMB,)

Defendants.)

AFFIDAVIT OF MICHAEL R. THORNTON

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

I, Michael R Thornton , after being duly sworn, do hereby depose and, upon personal knowledge, state as follows

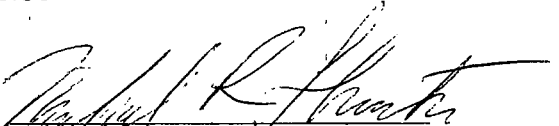
1 I am employed as an Environmental Protection Specialist in the Division of Water Pollution Control in the Tennessee Department of Environment and Conservation (TDEC) I have been employed with TDEC for over twenty-two years in the Water Pollution Control Division

2 In my present position I am responsible for checking and enforcing compliance with standards and requirements of the Water Quality Control Act, set forth in Tenn Code Ann § 69-3-101, et seq This includes conducting inspections and reviewing monitoring reports to confirm compliance with limits set out in National Pollution Discharge Elimination System (NPDES) permits

3 I have reviewed the discharge monitoring reports and monthly operational reports submitted by Lynnwood Utility Corporation, as required under its NPDES permits, for the period

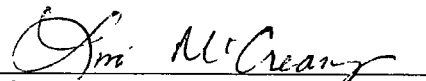
July 1, 1998 through April 30, 2002 Attached hereto are my summaries of what those reports reflect, including permit parameter violations for the same time period

FURTHER THE AFFIANT SAITH NOT


MICHAEL R. THORNTON

Sworn to and subscribed before me

this 23 day of May, 2002


NOTARY PUBLIC

My Commission Expires

LISA McCREARY
Notary Public, Sumner Co., TN
My Comm Expires Oct 2, 2005

Facility
County

Lynnwood Utility Corp
Williamson

Permit #
Capacity

TN0029718
* 0 25/0 20 MGD

Expiration Date
Effective Date

07/29/98
07/30/93

07/31/01
08/01/98

Month	Flow Inf Mo Avg MGD	Flow Inf Daily Max -MGD	Flow Eff Mo Avg MGD	BOD/CBOD Inf Mo Avg mg/L	BOD/CBOD Eff Mo Avg mg/L	BOD/CBOD wk avg max conc mg/L	BOD/CBOD Eff Daily Max mg/L	BOD/CBOD Eff Mo Avg mg/L	BOD/CBOD wk avg max conc mg/L	BOD/CBOD Eff Daily Max mg/L	BOD/CBOD Eff Mo Avg mg/L	BOD/CBOD wk avg max loading pounds	BOD/CBOD min % removal %	BOD/CBOD avg % removal %
Jan	0.152	0.339	0.120	198	175	38.3	90.0	1	38.3	90.0	1	33.7	50.8	91.1
Feb	0.132	0.261	0.117	171	7.5	11.0	14.0	1	11.0	14.0	1	14.2	89.0	95.6
Mar	0.129	0.231	0.110	180	8.2	8.7	15.0	1	8.7	15.0	1	9.9	91.4	95.4
Apr	0.146	0.241	0.129	170	10.2	11.0	17.0	1	11.0	17.0	1	13.4	83.5	94.0
May	0.133	0.217	0.105	199	19.5	23.0	26.0	1	23.0	26.0	1	26.6	84.6	90.2
Jun	0.159	0.447	0.128	178	20.0	28.3	31.0	1	28.3	31.0	1	48.5	55.7	86.8
Jul	0.125	0.178	0.108	167	12.9	31.0	50.0	1	31.0	50.0	1	26.7	78.3	92.3
Aug	0.135	0.461	0.133	194	12.1	36.0	70.0	1	36.0	70.0	1	6.4	95.2	98.9
Sep	0.127	0.161	0.108	246	10	10	10	1	10	10	1	12	99.4	99.6
Oct	0.125	0.158	0.108	299	30	30	30	1	30	30	1	3.2	98.2	99.0
Nov	0.269	0.349	0.136	309	30	30	30	1	30	30	1	3.8	98.7	99.0
Dec	0.265	0.398	0.177	394	33.2	33.3	40	1	33.3	40	1	5.9	97.4	99.2
Average	0.158	0.461	0.127	226	90	38.3	90.0	1	38.3	90.0	1	49.5	50.8	95.3
Summer Limits	Report (7/nk) c	Report (7/nk) c	Report (7/nk) c	Report (3/nk) C	10	15	20 (3/nk) C	* 21/17	15	20 (3/nk) C	* 21/17	* 31/25	40	85
Winter Limits	Report (7/nk) c	Report (7/nk) c	Report (7/nk) c	Report (3/nk) C	10	15	20 (3/nk) C	* 21/17	15	20 (3/nk) C	* 21/17	* 31/25	40	85
Limit Violations					5	9	17	3				2		
Freq Violations			151											

Month	Ammonia Inf Mo Avg mg/L	Ammonia Eff Mo Avg mg/L	Ammonia wk avg max conc mg/L	Ammonia Eff Daily Max mg/L	Ammonia wk avg loading lbs	Ammonia Eff Mo Avg mg/L	Sett Solids Inf Mo Avg mg/L	Sett Solids Eff Daily Max mg/L	Sett Solids wk avg loading pounds	Sett Solids Eff Mo Avg mg/L	Sett Solids Eff Daily Max mg/L	Sett Solids wk avg loading pounds	Sample Type
Jan	8.2	17.0	3	20.0	4	86	11.5	0.7	17.9	11.5	0.7		C - continuous
Feb	3.0	4.7	5	7.0	1	13.1	11.5	0.8	4.8	11.5	0.8		C - composite
Mar	4.1	4.6	1	11.8	1	4.1	11.5	0.6	4.9	11.5	0.6		G - grab
Apr	12.2	19.5	3	23.0	8	12.0	15.7	0.8	19.8	15.7	0.8		
May	20.6	25.9	5	32.8	13	23.1	16.4	0.3	31.2	16.4	0.3		
Jun	18.9	23.9	4	27.7	13	19.4	19.0	1.0	31.9	19.0	1.0		
Jul	10.0	26.2	3	26.9	7	10.3	16.5	3.0	24.2	16.5	3.0		
Aug	0.8	2.7	1	4.9	1	0.7	105.2	0.2	2.5	105.2	0.2		
Sep	0.1	0.1	0.1	0.1	0.1	0.1	20.1	0.01	0.1	20.1	0.01		
Oct	0.1	0.2	0.1	0.3	0.2	0.2	241.7	0.01	0.2	241.7	0.01		
Nov	0.2	0.6	0.6	1.5	0.3	0.6	285.3	0.01	0.6	285.3	0.01		
Dec	0.1	0.2	0.2	0.3	0.2	0.3	134.0	0.0	0.3	134.0	0.0		
Average	6.5	26.2		32.8		68	89.4	3.00	31.9	89.4	3.00		
Summer Limits	NA	2.0		4.0 (3/nk) C	* 4.030	* 6.050	NA	1.0 (**)	* 6.050	NA	1.0 (**)		
Winter Limits	NA	5.0		10.0 (3/nk) C	* 10.080	* 16.0130	NA	1.0 (**)	* 16.0130	NA	1.0 (**)		
Limit Violations						4	13						
Freq Violations													

** change at permit reissuance
- monitoring frequency from 5/nk to 3/nk
- sample type from grab to composite

Facility
County

Lynnwood Utility Corp
Williamson

Permit #
Capacity

TN0029718
* 0 25/0 20 MGD

Expiration Date
Effective Date

07/29/98
07/30/93

07/31/01
08/01/98

Facility: **Lynnwood Utility Corp** Permit #: **TN0029718** Expiration Date: **07/31/01** 07/31/01
County: **Williamson** Capacity: **0.20 MGD** Effective Date: **08/01/98** 05/14/99

Month	Flow Inf Mo Avg MGD	Flow Inf Daily Max MGD	Flow Eff Mo Avg MGD	BOD/CBOD Inf Mo Avg mg/L	BOD/CBOD Eff Mo Avg mg/L	BOD/CBOD wk avg max conc mg/L	BOD/CBOD Eff Daily Max mg/L	BOD/CBOD eff mo avg loading pounds	BOD/CBOD wk avg max loading pounds	BOD/CBOD min % removal %	BOD/CBOD avg % removal %
1999											
Jan	0.223	0.631	0.216	182	3.0	3.0	3.0	4.9	6.2	97.4	98.4
Feb	0.325	0.438	0.172	487	3.0	3.0	3.0	4.4	6.0	98.2	99.4
Mar	0.279	0.447	0.176	424	3.0	3.0	3.0	4.6	6.4	98.5	99.3
Apr	0.402	0.525	0.148	448	3.1	3.3	4.0	3.9	4.4	98.6	99.3
May	0.270	0.395	0.152	371	3.9	6.7	14.0	5.4	9.4	95.8	98.9
Jun	0.280	0.526	0.142	313	3.1	3.7	5.0	3.7	4.6	98.1	99.0
Jul	0.333	0.517	0.135	305	3.1	3.3	4.0	3.5	4.0	97.1	99.0
Aug	0.127	0.147	0.138	197	3.0	3.0	3.0	3.5	3.6	96.7	98.5
Sep	0.121	0.154	0.130	234	3.0	3.0	3.0	3.4	3.6	98.0	98.7
Oct	0.121	0.151	0.096	189	3.0	3.0	3.0	3.4	3.6	98.5	98.6
Nov	0.121	0.151	0.096	219	3.0	3.0	3.0	3.4	3.6	98.5	98.6
Dec	0.128	0.192	0.131	201	3.0	3.0	3.0	3.4	3.9	97.7	98.5
Average	0.228	0.631	0.151	298	3.1	6.7	14.0	3.9	9.4	95.8	98.8
Summer Limits	Report (7wk) c	Report	Report (7wk) c	Report (3wk) C	10	15	20 (3wk) C	17	25	40	85
Winter Limits	Report (7wk) c	Report	Report (7wk) c	Report (3wk) C	10	15	20 (3wk) C	17	25	40	85
Limit Violations											
Freq Violations			73	1							

Month	Ammonia Inf Mo Avg mg/L	Ammonia Eff Mo Avg mg/L	Ammonia wk avg max conc mg/L	Ammonia no Vio	Ammonia mo avg loading lbs	Ammonia no Vio	Ammonia wk avg max loading lbs	Sett Solids Inf Mo Avg mg/L	Sett Solids Eff Daily Max mg/L	Sample Type
1999										c - continuous
Jan	0.16	0.23	0.23	0.50	0.30	0.57	0.22	15.2	0.01	G - grab
Feb	0.10	0.11	0.11	0.13	0.15	0.23	0.23	33.6	0.01	
Mar	0.12	0.11	0.11	0.26	0.17	0.23	0.23	35.4	0.01	
Apr	0.13	0.21	0.21	0.33	0.17	0.28	0.28	66.2	0.01	
May	0.42	0.85	0.85	1.90	0.53	1.08	1.08	501.2	0.01	
Jun	2.97	9.03	9.03	15.90	3.49	11.09	11.09	436.7	0.01	
Jul	8.91	14.33	14.33	20.00	9.80	15.38	15.38	482.9	0.01	
Aug	0.12	0.18	0.18	0.34	0.14	0.22	0.22	15.7	0.10	
Sep	0.11	0.14	0.14	0.22	0.12	0.15	0.15	17.0	0.01	
Oct	0.51	1.52	1.52	4.30	0.58	0.84	0.84	15.5	0.01	
Nov	0.10	0.11	0.11	0.13	0.12	0.13	0.13	16.9	0.05	
Dec	0.30	0.66	0.66	1.50	0.35	0.85	0.85	17.3	0.01	
Average	#DIV/0!	1.2	14.3	20.0	1.3	15.4	15.4	239.2	0.10	
Summer Limits	NA	2.0	3.0	4.0 (3wk) C	3.0	5.0	5.0	NA	10 (3wk) C	
Winter Limits	NA	5.0	7.5	10.0 (3wk) C	8.0	13.0	13.0	NA	10 (3wk) C	
Limit Violations										
Freq Violations		2	4	13	2	4	4			

07/31/01 07/31/01
08/01/98 05/14/99

Expiration Date
Effective Date

TN0029718
0.20 MGD

Permit #
Capacity

Lynnwood Utility Corp
Williamson

Facility
County

Month	TSS Inf Mo Avg mg/L	TSS Eff Mo Avg mg/L	TSS wk avg max conc mg/L	TSS Eff Daily Max mg/L no Vio	TSS eff mo avg loading pounds	TSS wk avg max loading pounds	TSS min % removal %	TSS avg % removal %	MOR LATE Y / N	BYPASS OVERFLOW # & IOR HR
1999										
Jan	189	93	117	150	149	203	93.2	95.1		
Feb	537	138	320	640	187	373	78.8	99.7		
Mar	4701	76	117	180	119	215	99.5	99.8		
Apr	7421	58	70	100	74	84	99.3	99.9		
May	5485	103	90	180	103	154	99.7	99.8		
Jun	3968	42	63	110	182	154	94.0	99.9		
Jul	4357	30	37	70	34	44	97.5	99.9		
Aug	244	44	80	80	55	67	96.4	98.2		
Sep	336	54	83	100	98	98	97.1	98.4		
Oct	220	72	88	130	69	93	92.3	96.7		
Nov	219	58	80	90	66	93	94.9	97.4		
Dec	221	66	90	140	87	87	92.0	97.0		
Average	2728	69	320	640	89	373	78.8	98.5	0	0
Summer Limits	Report (3Wk) C	30	40	45 (3Wk) C	50	67	40	85		
Winter Limits	Report (3Wk) C	30	40	45 (3Wk) C	50	67	40	85		
Limit Violations				1						
Freq Violations	1			1						

* - Permit reassurance 5/14/2001

Month	DO Eff Daily Min mg/L	pH Eff Daily Min standard units	pH Eff Daily Max standard units	Fecal Eff Geo Mean col / 100 mL	Fecal Eff Daily Max col / 100 mL no Vio	Chlorine Eff Daily Max mg/L no Vio
1999						
Jan	9.3	8.6	8.9	2	14	0.03
Feb	8.8	6.8	7.9	3	6	0.03
Mar	9.3	6.9	7.9	3	10	0.02
Apr	8.5	6.1	7.7	8	30	0.01
May	7.8	6.3	7.8	20	90	0.03
Jun	6.7	7.0	8.1	2	20	0.55
Jul	6.6	7.2	7.6	3	119	0.02
Aug	6.9	6.7	7.3	2	2	0.02
Sep	7.4	7.5	8.0	2	2	0.03
Oct	8.4	7.2	7.8	2	2	0.03
Nov	8.7	6.9	7.7	14	14500	0.02
Dec	9.7	6.9	7.4	3	6	0.03
Average	6.6	6.1	9.0	5	14500	0.55
Summer Limits	6.0 (5Wk) G	6.065	9.065 (5Wk) G	200	1000 (3Wk) G	0.03 (5Wk) G
Winter Limits	6.0 (5Wk) G	6.065	9.065 (5Wk) G	200	1000 (3Wk) G	0.03 (5Wk) G
Limit Violations		2			2	1
Freq Violations					1	

Sample Type
c - continuous
C - composite
G - grab

Facility	County
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Month	Summer - May - October		Winter		November - April		Limits - Limit (frequency) sample type				F - Monitoring frequency violation(s)			
	Ammonia Inf Mo Avg mg/L	Ammonia Eff Mo Avg mg/L no Vio	Ammonia Wk Avg Max mg/L no Vio	Ammonia Eff Daily Max mg/L no Vio	Ammonia lbs no Vio	Ammonia Eff Mo Avg mg/L no Vio	Ammonia lbs no Vio	Ammonia Wk Avg Max mg/L no Vio	Sett Solids Inf Mo Avg m/L	Sett Solids Eff Daily Max m/L				
2001														
Jan	18.96	1	25.80	4	10.50	1	30.00	14	31.02	1	22.2		0.05	
Feb	1.68		0.31		0.20		6.20		2.80		17.4		0.01	
Mar	0.11				0.16		0.20		0.16		21.3		0.01	
Apr	0.82		1.59		3.20		3.20		0.89		24.5		0.05	
May	0.23		0.49		0.80		0.80		0.36		22.2		0.05	
Jun	0.14		0.25		0.25		0.25		0.20		25.6		0.05	
Jul	0.18		0.34		0.68		0.68		0.27		22.2		0.05	
Aug	3.43	1	7.30	1	13.50	3	20.00	4	4.60	1	24.4		0.50	
Sep	5.51	1	18.00	3	20.00	4	6.00		16.67	2	18.2		0.50	
Oct	1.12		3.42	1	11.00	1	20.00	2	4.75		15.8		1.00	
Nov	0.56		0.22		4.80		4.80		1.00		13.8		1.00	
Dec	0.13		1.95		0.29		0.29		0.22		11.4		0.50	
Avg/Min/Max	510	27	25.8		30.0		4.1		40.7		19.9		1.00	
Summer Limits	NA	20	30		4.0	(3wkt)	C	70	10.0		NA		1.0 (3wkt) C	
Winter Limits	NA	50	7.5		10.0	(3wkt)	C	17	25.0		NA		1.0 (3wkt) C	
Limit Violations		3	10		22		1		7					
Freq Violations					8									

2001

Facility
County

Lynnwood Utility Corp
Williamson

Permit #
Capacity

TN0029718
0.25 MGD

Expiration Date
Effective Date

07/31/01
05/14/99

Month	TSS Inf Mo Avg mg/L	TSS Eff Mo Avg mg/L	TSS Wk Avg Max mg/L	TSS Eff Daily Max mg/L no Vio	TSS Eff Mo Avg pounds	TSS Wk Avg Max pounds	TSS min % removal %	TSS avg % removal %	MOR LATE Y / N	SEWER OVERFLOW events
2001										
Jan	328	72	147	160	120	183	91.9	97.8		3 14.25
Feb	183	120	320	300	414	104.5	55.9	93.4		
Mar	276	25	30	30	37	40	97.4	99.1		
Apr	266	65	97	210	102	167	88.2	97.4		
May	298	40	50	100	61	84	96.3	98.7		
Jun	248	32	47	106	47	72	98.0	98.7		
Jul	283	29	33	50	43	48	98.1	99.0		
Aug	258	60	85	130	90	155	91.0	97.7	Y	
Sep	124	40	80	130	50	105	88.0	96.8	Y	
Oct	157	60	115	160	90	230	80.0	96.2	Y	
Nov	158	40	58	70	70	105	95.0	97.5	Y	1
Dec	133	20	37	30	35	67	90.0	98.5	Y	
Avg/Min/Max	225	50	320	900	97	104.5	55.9	97.6	5	4 14.25
Summer Limits	Report (3wk) C	30	40	45 (3wk) C	100	133	40	85		
Winter Limits	Report (3wk) C	30	40	45 (3wk) C	100	133	40	85		
Limit Violations				1						
Freq Violations	10			8						

Sample Type
C - continuous
C - composite
G - grab

Month	DO Eff Daily Min mg/L	pH Eff Daily Min standard units	pH Eff Daily Max standard units	Fecal Eff Geo Mean col/100 mL	Fecal Eff Daily Max col/100 mL no Vio	Chlorine Eff Daily Max mg/L	Total Nitrogen Eff Mo Avg mg/L no Vio	Total Nitrogen Wk Avg Max mg/L no Vio	Total Nitrogen Eff Daily Max mg/L no Vio	Total Nitrogen Eff Mo Avg mg/L no Vio	Total Nitrogen Wk Avg Max mg/L no Vio
2001											
Jan	75	75	80	2	2	0.03	F2				
Feb	93	74	81	2	3	0.03					
Mar	98	74	75	2	4	0.03					
Apr	86	69	76	5	1200	0.03	F2				
May	82	70	75	7	48	0.03	F2				
Jun	80	69	81	5	86	0.03	F2				
Jul	78	74	84	11	800	0.04	F2				
Aug	70	72	82	14	1500	0.04	F2				
Sep	75	68	78	13	4100	0.05	F2				
Oct	60	68	75	3	34	0.02	F2				
Nov	70	70	85	3	298	0.02	F2				
Dec	80	65	73	2	2	0.02	F2				
Average	60	65	85	6	4100	0.50					
Summer Limits	60 (5wk) G	65	85 (5wk) G	200	1000 (3wk) G	0.03 (5wk) G	30	45	60 (3wk) C	10.0	15.0
Winter Limits	60 (5wk) G	65	85 (5wk) G	200	1000 (3wk) G	0.03 (5wk) G	NA	NA	NA	NA	NA
Limit Violations				4	4	4	5	8	16	1	3
Freq Violations	8		24		10	7	6				

Facility: Lynnwood Utility Corp
 County: Williamson
 Permit #: TN0029718
 Capacity: 0.40 MGD
 Expiration Date: 07/31/01
 Effective Date: 05/14/99

Month	Flow Inf Mo Avg MGD	Flow - Inf Daily Max MGD	Flow Eff Mo Avg MGD	BOD/CBOD Inf Mo Avg mg/L	BOD/CBOD Eff Mo Avg mg/L	BOD/CBOD Wk Avg Max mg/L no Vio	BOD/CBOD Eff Daily Max mg/L no Vio	BOD/CBOD Eff Mo Avg pounds	BOD/CBOD Wk Avg Max pounds	BOD/CBOD min % removal %	BOD/CBOD avg % removal %
2002											
Jan	0.242	0.550	0.240	171	F2	37	5.0	5.0	6.3	94.0	98.2
Feb	0.203	0.260	0.205	237	F2	30	9.0	6.0	10.5	85.0	98.3
Mar	0.228	0.620	0.225	179	F1	93	22.0	8.0	16.7	90.0	97.4
Apr	0.238	0.600	0.231	211	F1	30	33.0	6.2	18.0	97.0	98.6
May											#DIV/0!
Jun											#DIV/0!
Jul											#DIV/0!
Aug											#DIV/0!
Sep											#DIV/0!
Oct											#DIV/0!
Nov											#DIV/0!
Dec											#DIV/0!
Avg/Min/Max	0.228	0.620	0.225	200	36	93	22.0	6.3	16.7	90.0	#DIV/0!
Summer Limits	Report (7wk) c	Report	Report (7wk)	Report (3wk) C	5	7.5	10 (3wk) C	17	25	40	85
Winter Limits	Report (7wk) c	Report	Report (7wk)	Report (3wk) C	10	15	20 (3wk) C	33	50	40	85
Limit Violations											
Freq Violations				8		1	1				

Month	Ammonia Inf Mo Avg mg/L	Ammonia Eff Mo Avg mg/L	Ammonia Wk Avg Max mg/L no Vio	Ammonia Eff Daily Max mg/L no Vio	Ammonia Eff Mo Avg lbs no Vio	Ammonia Wk Avg Max lbs no Vio	Sett Solids Inf Mo Avg mg/L	Sett Solids Eff Daily Max mg/L	Sett Solids Eff Mo Avg no Vio	Sample Type
2002										c - continuous C - composite G - grab
Jan	223	238	623	880	F1	800	189	100		
Feb	306	127	435	630	F2	750	143	100		
Mar	180	172	380	420	F1	300	114	500	5	
Apr	300	396	550	730	F2	948	122	0.50		
May										
Jun										
Jul										
Aug										
Sep										
Oct										
Nov										
Dec										
Avg/Min/Max	252	23	62	88	40	95	142	500		
Summer Limits	NA	20	30	40 (3wk) C	70	100	NA	1.0 (3wk) C		
Winter Limits	NA	50	75	100 (3wk) C	17	250	NA	1.0 (3wk) C		
Limit Violations			0							
Freq Violations				5				5		

Facility: Lynnwood Utility Corp Permit #: TN0029718 Expiration Date: 07/31/01
 County: Williamson Capacity: 0.25 MGD Effective Date: 05/14/99

Month	TSS Inf Mo Avg mg/L	TSS Eff Mo Avg mg/L	TSS Wk Avg Max mg/L	TSS Eff Daily Max mg/L no Vio	TSS Eff Mo Avg pounds	TSS Wk Avg Max pounds	TSS min % removal %	TSS avg % removal %	MOR LATE Y/N	SEWER OVERFLOW events
2002										
Jan	142	40	80	F1	70	147	89.0	97.2	Y	2
Feb	334	80	110	F2	117	190	86.0	97.8		8
Mar	116	60	100	F1	117	290	910	94.8	Y	
Apr	129	50	85	F1	102	150	90.0	95.1		
May								#DIV/0!		
Jun								#DIV/0!		
Jul								#DIV/0!		
Aug								#DIV/0!		
Sep								#DIV/0!		
Oct								#DIV/0!		
Nov								#DIV/0!		
Dec								#DIV/0!		
Avg/Min/Max	180	58	110		107	290	860	#DIV/0!	2	8.00
Summer Limits	Report (3wks) C	30	40	45 (3wks) C	100	133	40	85		
Winter Limits	Report (3wks) C	30	40	45 (3wks) C	100	133	40	85		
Limit Violations										
Freq Violations	8			5						

Month	DO	pH	pH	Eff Daily Min	Eff Daily Max	Eff Geo Mean	Fecal	Chlorine	Total Nitrogen	Total Nitrogen	Total Nitrogen	Total Nitrogen	Total Nitrogen
2002													
Jan	7.0	6.5	7.5	F6	F6	4	7900	0.02	F4				
Feb	6.5	6.5	7.2	F2	F2	2	2	0.02					
Mar	7.2	6.5	7.8			2	2	0.02	6.9	12.1	110	14.7	
Apr	7.0	6.2	7.6			2	2	0.02	6.4	9.9	130	14.0	
May													
Jun													
Jul													
Aug													
Sep													
Oct													
Nov													
Dec													
Avg/Min/Max	6.5	6.2	7.8			3	7900	0.02	6.6	12.1	120	14.7	
Summer Limits	6.0 (5wks) G	6.5	8.5 (5wks) G	200	1000 (3wks) G	200	1000 (3wks) G	0.04 (5wks) G	3.0	6.0 (3wks) C	10.0	15.0	
Winter Limits	6.0 (5wks) G	6.5	8.5 (5wks) G	200	1000 (3wks) G	200	1000 (3wks) G	0.04 (5wks) G	NA	NA	NA	NA	
Limit Violations							1						
Freq Violations	2		8		5		4						

Sample Type
 C - continuous
 C - composite
 G - grab

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY RECEIVED

DEC 30 2002

Dav Co Chancery Court

**STATE OF TENNESSEE, ex rel.)
PAUL G. SUMMERS, in his official capacity)
as the Attorney General And Reporter of)
Tennessee and MILTON H. HAMILTON, JR.)
Commissioner of the Tennessee Department of)
Environment and Conservation,)**

Plaintiffs,

MATT and ANN DOBSON, MARTIN and LAURIE CLAYTON, HANK and MARY BROCKMAN, DR. DANIEL and LORIE CANALE, BRENT and JANEL MAHER, DIANNA MAHER, RON and DONNA TUTT, and DR. BEN GRIFFITH,

Plaintiffs-Intervenors,

v.

No. 02-1538-III

**SOUTHERN UTILITY CORPORATION,
d/b/a LYWOOD UTILITY,
CORPORATION and DAVIS LAMB,**

Defendants.

ORDER GRANTING TEMPORARY INJUNCTION

Plaintiffs, State of Tennessee, ex rel the Attorney General and Reporter, and the Commissioner of the Tennessee Department of Environment and Conservation, filed a motion for temporary injunction under the Water Quality Control Act, Tenn Code Ann §§ 69-3-101 to 69-3-137, which came to be heard on December 20, 2002 before the Honorable Ellen Hobbs Lyle. The plaintiffs-intervenors joined in the State's motion. Based on the motion, responses and affidavits filed by the parties, arguments of counsel, and the entire record in this cause, the Court finds that the State's application should be granted in the following respects:

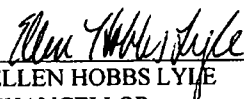
1 The record reflects that the defendants have a five year history of violations of their National Pollutant Discharge Elimination System (NPDES) permits, and as recently as October 2002 defendants have not conducted laboratory operations, including sample collection and analysis, in accordance with EPA-approved methodology, as mandated in their existing NPDES permit

QMI-7-03

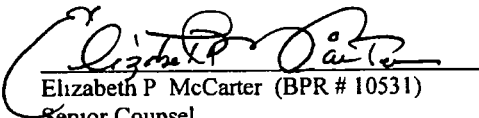
2 In accordance with Tenn. Code Ann §69-3-117, the defendants are enjoined from operating their sewage treatment plant in violation of the effluent parameters and all other terms and conditions of their 1999 and 2002 NPDES permits, which are not under appeal to the Tennessee Water Quality Control Board

3 This injunction shall take effect immediately

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that defendants must immediately comply with the effluent parameters and all other terms and conditions of their 1999 and 2002 NPDES permits, which are not under appeal to the Tennessee Water Quality Control Board All other matters are reserved pending further Orders in this cause


ELLEN HOBBS LYLE
CHANCELLOR

SUBMITTED FOR ENTRY


Elizabeth P. McCarter (BPR # 10531)
Senior Counsel
Office of the Attorney General
P.O. Box 20207
Nashville, TN 37202
(615) 532-2582


Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I certify that a true and exact copy of the foregoing proposed Order has been served upon the following via fax and first class mail, postage prepaid, on this 30th day of December 2002

Jeffrey R. King
Stites & Harbison PLLC
SunTrust Center
424 Church Street, Suite 1800
Nashville, TN 37219-2387

Elizabeth L. Murphy
Attorney at Law
45 Music Square West
Nashville, TN 37203


Elizabeth P. McCarter
Senior Counsel

435771

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JUN 21 2004

Day. Co. Chancery Court

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

STATE OF TENNESSEE, ex rel.
PAUL G. SUMMERS, in his official capacity
as the Attorney General And Reporter of
Tennessee and MILTON H. HAMILTON, JR.
Commissioner of the Tennessee Department of
Environment and Conservation,

Plaintiffs,

MATT and ANN DOBSON, MARTIN and
LAURIE CLAYTON, HANK and MARY
BROCKMAN, DR. DANIEL and LORIE
CANALE, BRENT and JANEL MAHER,
DIANNA MAHER, RON and DONNA TUTT,
and DR. BEN GRIFFITH,

Plaintiffs-Intervenors,

v.

SOUTHERN UTILITY CORPORATION,
d/b/a LYNWOOD UTILITY,
CORPORATION and DAVIS LAMB,

Defendants.

No. 02-1538-III
Notice of Entry Requested Per
Tenn. R. Civ. P. 58

CONSENT ORDER AND DISMISSAL

It appears to the Court, as evidenced by the signatures of counsel for all parties affixed below, that the parties have compromised and settled all matters in dispute between and among them with respect to the subject matter of this litigation. As part of this settlement, the parties agree as follows:

1. Defendants Southern Utility Corporation d/b/a Lynwood Utility Corporation and

C/m 6/24/04

Davis Lamb shall collectively pay a civil penalty in the amount \$70,000.00 to the State of Tennessee and damages in the amount of \$30,000.00 to the plaintiffs-intervenors within 30 days of entry of this Order by the Court.

2. Defendants shall make no further connections, line extensions, or allow increased flows to their waste water collection system, except in accordance with their NPDES permit.

3. From the date of entry of this consent order through July 31, 2006, defendants may be subject to a civil penalty of up to \$1,000.00 for each violation in the event defendants' facility violates effluent limits for total suspended solids, settleable solids, carbonaceous biochemical oxygen demand, pH, ammonia, total residual chlorine, total phosphorous, fecal coliform, *e. coli* and dissolved oxygen, or per instance of collection system overflows or in-plant bypasses.

4. From the date of entry of this consent order through April 30, 2005, defendants may be subject to a civil penalty of up to \$500.00 for each violation in the event defendants' facility violates the effluent limits for total nitrogen. From April 30, 2005 through July 31, 2006, defendants may be subject to a civil penalty of up to \$1,000.00 for each violation in the event defendants' facility violates the effluent limits for total nitrogen

5. The total contingent civil penalties assessed against defendants under items 3 and 4 shall not exceed a total of \$10,000.00 for any given month.

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that:

1. Defendants Southern Utility Corporation d/b/a Lynwood Utility Corporation and Davis Lamb shall collectively pay \$70,000.00 in civil penalties to the State of Tennessee and \$30,000.00 in damages to the plaintiffs-intervenors within 30 days of entry of this Order;

2. Defendants shall make no further connections, line extensions, or allow increased flows to their waste water collection system, except in accordance with their NPDES permit;

3. From the date of entry of this consent order through July 31, 2006, defendants may be subject to a civil penalty of up to \$1,000.00 for each violation in the event defendants' facility violates effluent limits for total suspended solids, settleable solids, carbonaceous biochemical oxygen demand, pH, ammonia, total residual chlorine, total phosphorous, fecal coliform, *e. coli* and dissolved oxygen, or per instance of collection system overflows or in-plant bypasses;


4. From the date of entry of this consent order through April 30, 2005, defendants may be subject to a civil penalty of up to \$500.00 for each violation in the event defendants' facility violates the effluent limits for total nitrogen. From April 30, 2005 through July 31, 2006, defendants may be subject to a civil penalty of up to \$1,000.00 for each violation in the event defendants' facility violates the effluent limits for total nitrogen;

5. The total contingent civil penalties assessed against defendants under items 3 and 4 shall not exceed a total of \$10,000.00 for any given month;

6. All court costs shall be borne by the named defendants in this action;

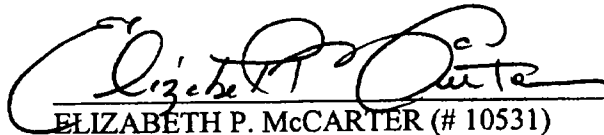
7. This action is hereby dismissed with prejudice.

IT IS SO ORDERED.



ELLEN HOBBS LYLE
Chancellor

APPROVED FOR ENTRY:



ELIZABETH P. McCARTER (# 10531)

Senior Counsel

R. STEPHEN JOBE (# 17426)

Assistant Attorney General

Office of the Attorney General

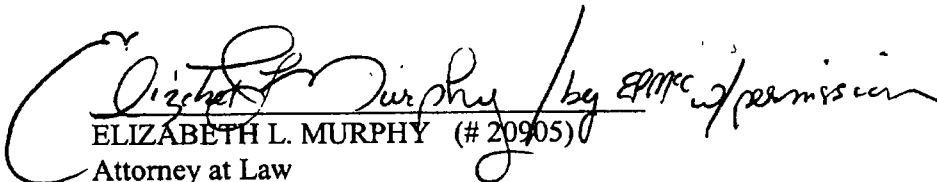
Environmental Division

P. O. Box 20207

Nashville, Tennessee 37202

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Attorneys for Plaintiffs



ELIZABETH L. MURPHY (# 20905)

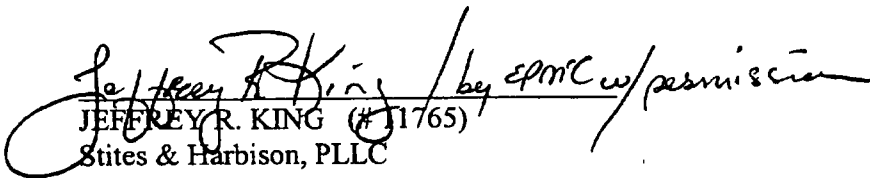
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Attorney for Plaintiffs-Intervenors



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Attorney for Defendants